

§ 48.6420(a)-2

6420(c)(3)(A) and § 48.6420-4(d), the claimant must have records showing (i) the name and address of the person who performed the farming operation, (ii) a description of the type of work (such as plowing, threshing, combining, etc.) and the type of equipment used, (iii) the date or dates on which the work was done, and (iv) the number of gallons of gasoline so used on the claimant's farm.

(c) *Place and period for keeping records.* (1) All records required by this section must be kept by the claimant at a convenient and safe location within the United States which is accessible to internal revenue officers and shall during normal business hours be available for inspection by internal revenue officers. If the claimant has a principal place of business in the United States, the records must be kept at that place of business.

(2) Records required to substantiate a claim under section 6420 must be maintained for a period of at least 3 years from the last date prescribed for the filing of the claim for credit or payment.

[T.D. 8043, 50 FR 32038, Aug. 8, 1985]

§ 48.6420(a)-2 Gasoline includible in claim.

Payment may be claimed under section 6420 only in respect of gasoline used on a farm in the United States for farming purposes. No payment is allowable under section 6420 with respect to gasoline used for nonfarming purposes, or gasoline used off a farm, regardless of the nature of such use. If a vehicle or other equipment is used both on a farm and off the farm, or if it is used on a farm both for farming and nonfarming purposes, payment is allowable only with respect to that portion of the gasoline which was "used on a farm for farming purposes" as defined in paragraph (a) of § 48.6420(c)-1. The type of equipment or vehicle and whether or not it is registered for highway use is immaterial. However, the actual use of the equipment or vehicle and place where it is used are material. For example, if a truck used on a farm for farming purposes is also used on the highways (even though in connection with operating the farm), the gasoline used in operating the truck on the

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highways is not to be taken into account in computing the payment for which a claim is filed, since such gasoline was used off the farm.

[T.D. 6433, 24 FR 10395, Dec. 22, 1959]

§ 48.6421-0 Off-highway business use.

For purposes of the regulations under section 6421, after March 31, 1983, the term "off-highway business use" is used in lieu of the term "qualified business use" and has the same meaning as "qualified business use" under § 48.6421-4(b).

[T.D. 8043, 50 FR 32039, Aug. 8, 1985]

§ 48.6421-1 Credits or payments to ultimate purchaser of gasoline used for certain nonhighway purposes.

(a) *In general.* (1) If gasoline is used in a qualified business use or as fuel in an aircraft (other than aircraft in noncommercial aviation), a credit (under the circumstances described in paragraph (b) of this section) or a payment (under the circumstances described in paragraph (c) of this section) in respect of the gasoline shall be allowed or made to the ultimate purchaser of the gasoline. For gasoline used in a qualified business use prior to April 1, 1983, the credit or payment under this section shall be an amount equal to 1 cent for each gallon of gasoline so used on which the tax was paid at the rate of 3 cents a gallon, and 2 cents for each gallon of gasoline so used on which the tax was paid at the rate of 4 cents a gallon. For gasoline used in an off-highway business use after March 31, 1983, the credit or payment under this section shall be an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081. For gasoline used as a fuel in an aircraft (other than aircraft in noncommercial aviation) the credit or payment under this section shall be an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on the gasoline under section 4081. No interest shall be paid on any payment allowed under paragraph (c) of this section. However, interest may be paid on any overpayment (as defined by section

6401) arising from a credit allowed under paragraph (b) of this section. See section 34(a), relating to credit for certain uses of gasoline and special fuels (and lubricating oil used prior to January 7, 1983). See § 48.6421-3 for the time within which a claim for credit or payment must be made under this section. See § 48.6421-4 for the meaning of the terms “gasoline,” “qualified business use,” “noncommercial aviation,” and “taxable year.”

(2) For purposes of determining the allowable credit or payment in respect of gasoline used in a qualified business use or as fuel in an aircraft (other than aircraft in noncommercial aviation), gasoline on hand shall be considered used in the order in which it was purchased. Thus, if the ultimate purchaser has on hand gasoline acquired in two purchases made at different times and subject to different rates of tax, in determining credit or payment for the gasoline used in a qualified business use or as fuel in an aircraft (other than aircraft in noncommercial aviation), it will be assumed that the gasoline first purchased was the first gasoline used, and the rate applicable to that purchase will apply in determining the credit or payment, until all that gasoline is accounted for.

(b) *Allowance of income tax credit in lieu of payment.* Except as provided in paragraph (c) of this section, repayment under this section of the tax paid under section 4081 on gasoline used in a qualified business use or as a fuel in an aircraft (other than aircraft in noncommercial aviation) by a person subject to income tax may be obtained only by claiming a credit for the amount of this tax against the tax imposed by subtitle A of the Code. The amount of the credit shall be an amount equal to the payment which would be made under section 6421 with respect to gasoline used during the taxable year in a qualified business use or as a fuel in an aircraft (other than aircraft in noncommercial aviation) if section 6421(i) and paragraph (c) of this section did not apply. See section 34(a)(2).

(c) *Allowance of payment.* Payments in respect of gasoline upon which tax was paid under section 4081 that is used in a qualified business use or as a fuel

in an aircraft (other than aircraft in noncommercial aviation) shall be made only to—

(1) The United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more State political subdivisions of a State, or the District of Columbia,

(2) An organization which is exempt from tax under section 501(a) and is not required to make a return of the income tax imposed under subtitle A for its taxable year, or

(3) A person described in section 6421(c)(2) to whom \$1,000 or more is payable (without regard to paragraph (b) of this section) under this section with respect to gasoline used during any of the first three quarters of the person's taxable year.

(d) *Dual use of gasoline.* (1) No credit or payment may be claimed in respect of gasoline used in a highway vehicle used in a trade or business or for the production of income solely by reason of the fact that the propulsion motor in the vehicle is also used for a purpose other than the propulsion of the vehicle. Thus, if the propulsion motor of a highway vehicle (used in a trade or business or for the production of income) also operates special equipment, such as a mixing unit on a concrete mixer truck or a pump for discharging fuel from a tank truck, by means of a power takeoff or power transfer, no credit or payment may be claimed in respect of the gasoline used to operate the special equipment, even though the special equipment is mounted on the highway vehicle.

(2) If a highway vehicle is equipped with a separate motor to operate the special equipment used in a trade or business or for the production of income, such as a refrigeration unit, pump, generator, or mixing unit, credit or payment may be claimed in respect of the gasoline used in the separate motor.

(3) If gasoline used in a separate motor is drawn from the same tank as the one which supplies gasoline for the propulsion of the highway vehicle, the determination as to the quantity of gasoline used in the separate motor operating the special equipment must be

based on operating experience and supported by records.

(4) Devices to measure the number of miles the highway vehicle has traveled, such as hubometers, may be used in making a preliminary determination of the number of gallons of gasoline used to propel the vehicle. In order to make a final determination of the number of gallons of gasoline used to propel the vehicle, there must be added to this preliminary determination the number of gallons of gasoline consumed while idling or warming up the motor preparatory to propelling the vehicle.

(e) *Gasoline lost or destroyed.* Gasoline lost or destroyed through spillage, fire, or other casualty is not considered to have been “used” in a qualified business use or as fuel in an aircraft (other than aircraft in noncommercial aviation) and, accordingly, credit or payment in respect of the gasoline may not be claimed.

(f) *Supporting evidence required.* Each claim under this section for credit or payment must include a statement showing—

(1) The total number of gallons of gasoline purchased and used during the period covered by the claim in a qualified business use multiplied by the rate of payment allowable in respect of the gasoline. (For the rate of payment allowable, see paragraph (a)(1) of this section.)

(2) The total number of gallons of gasoline purchased and used during the period covered by the claim for use as fuel in an aircraft (other than aircraft in noncommercial aviation) multiplied by the rate of payment allowable in respect of the gasoline.

(3) The purpose or purposes for which the gasoline was used, determined by reference to general categories, and the amount used for each purpose; and

(4) If a claim on Form 843 is being filed, the internal revenue district or service center with which the claimant last filed an income tax return (if any).

[T.D. 8043, 50 FR 32039, Aug. 8, 1985]

§ 48.6421-2 Credits or payments to ultimate purchasers of gasoline used in intercity, local, or school buses.

(a) *In general.* If gasoline is used in an intercity or local bus while engaged in furnishing (for compensation) pas-

senger land transportation available to the general public or in a school bus engaged in the transportation of students or employees of schools, a credit (under the circumstances described in paragraph (b) of this section) or a payment (under the circumstances described in paragraph (c) of this section) in respect to the gasoline shall be allowed or made to the ultimate purchaser of the gasoline. The credit or payment under this section shall be an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on the gasoline by section 4081. No interest shall be paid on any payment allowed under paragraph (c) of this section. However, interest may be paid on an overpayment (as defined by section 6401) arising from a credit allowed under paragraph (b) of this section. See section 34(a) relating to credit for certain uses of gasoline and special fuels, (and lubricating oil used prior to January 7, 1983). See § 48.6421-3 for the time within which a claim for credit or payment must be made under this section. See § 48.6421-4 for the meaning of “gasoline.”

(b) *Allowance of income tax credit.* Except as provided in paragraph (c) of this section, repayment under this section of the tax paid under section 4081 of gasoline used while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations by a person subject to income tax may be obtained only by claiming a credit for the amount of this tax against the tax imposed by subtitle A of the Code. The amount of the credit shall be an amount equal to the payment which would be made under section 6421 with respect to gasoline used during the taxable year for this passenger land transportation or school bus operations if section 6421(i) and paragraph (c) of this section did not apply. See section 34(a)(2).

(c) *Allowance of payment.* Payments in respect of gasoline upon which tax was paid under section 4081 that is used while engaged in furnishing (for compensation) passenger land transportation available to the general public